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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,240	04/09/2004	Noel C. Cobb	0075-1	1744

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EXAMINER

PRONE, JASON D

ART UNIT PAPER NUMBER

3724

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

Office Action Summary	Application No. 10/822,240	Applicant(s) COBB ET AL.	
	Examiner Jason Prone	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 July 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2,4,5,7 and 9-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2,4,5,7 and 9-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 April 2004 is/are: a) accepted or b) objected to by the Examiner.
 - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

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DETAILED ACTION

Application 11/352,728 has been review for double patenting with respect to the instant application. Double patenting has been deemed improper at this time, however, it is noted that the claims of 11/352,728 incorporate claims that are very similar to the original claims of the instant application. That being said, the claims of 11/352,728 incorporate the same issues under 112 as the original claims of instant application. If applicant corrects these claims the same way the claims where corrected in the instant application, a form of double patenting may be appropriate.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "transverse angulation from about 10 degrees to about 80 degrees", of claim 4, and "transverse angulation from about 30 degrees to about 45 degrees", of claim 5, must be shown or the feature(s) canceled from the claim(s). The Figures do not incorporate a structure that performs the exposing of a fresh edge. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The use of the trademark "sheet rock" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology (dry wall). The changes to the specification are noted, however the trademarked term also appears in the abstract.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

3. Claim 2 is objected to because of the following informalities: After further review the phrases "a two-piece handle for supporting the blade in a transversely angulated position" and "said blade being transversely angulated with respect to the gripping portion when viewed from a side view in the blade defined by the blade" appear to be inaccurate. Applicants Figures clearly show the blade being supported in a horizontal position or an angle of 0° which is clearly not an angulated position. Therefore, in order

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for the blade to be in an angulated position and remain in the horizontal plane, the blade, shown in the lower picture of Figure one, would have to be rotated. The blade is not angulated with respect to the gripping portion; the gripping portion is angulated with respect to the blade and the blade supporting portion. The term "transversely" is defined as: lying or extending across or in a cross direction. The side view or upper picture of Figure 1 does not show the blade and the gripping portion lying or extending across one another. The top view of lower picture of Figure 1, discloses what could be considered the blade extending across the gripping portion, but the blade is not angulated with respect to the gripping portion in the top view. An accurate description would be: the gripping portion is angulated with respect to the blade and the blade supporting portion.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 4 and 5 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 2 discloses that the blade is transversely angulated with respect to the gripping portion, therefore the transverse angulation must

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be the angle created between the blade and the gripping portion. Claims 4 and 5 disclose the angulation is about 10 degrees to about 80 degrees and from about 30 degrees to about 45 degrees, respectively, but applicant's Figures clearly disclose the angle between the blade and the gripping portion as an angle much greater than 90 degrees. It is unclear how the transverse angulation can be an angle less than 90 degrees when the Figures clearly disclose a transverse angulation greater than 90 degrees.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 4, 5, 7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, Jr. (5,174,028) in view of Joanis et al. (3,845,554)

In regards to claim 2, Seltzer, Jr. discloses the same invention including a reversible detachable blade having a sharp edge (16), a two-piece handle (26a and 24a in Figure 4) for supporting the blade in a transversely angulated position (Figs. 2, 3, and 5), the handle comprising a one-piece left side member (26a) and a one-piece right side member (24a), wherein the left side member is removably attached to the right side member to create the handle (Fig. 4), the handle including a gripping portion (30a) and a blade supporting portion (28a), the blade being transversely angulated with respect to the gripping portion when viewed from a side view in the blade defined by the blade

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(Figs. 2, 3, and 5, each of these Figures show a side view and the blade is transversely angulated with respect to a gripping portion in each Figure), a locating means disposed within the blade supporting portion for capturing the knife (inner portions of 26a and 24a), channel means disposed within the blade supporting portion for containing and supporting the blade in a vertical plane (Fig. 4), a clamping means for clamping the left and right side members and supporting the knife blade in a horizontal plane (20), a cavity for holding extra knife elements (36), the user may expose a fresh edge of the blade by replacing the blade with a new blade from the cavity (36).

In regards to claims 4 and 5, Seltzer, Jr. discloses the transverse angulation is from about 30° to about 45° (θ is clearly about 30° - 45°).

In regards to claim 7, Seltzer, Jr. discloses the locating means is attached to the right side member (inner portion of 24a).

In regards to claim 9, Seltzer, Jr. discloses the channel is milled to a width that loosely fits the edges of the knife blade (Fig. 4).

In regards to claims 10-12, Seltzer, Jr. discloses the clamping means comprises at least one bolt (20), the at least one bolt is threaded to the thickness of the left side member (Fig. 4), and the at least one bolt is slidably fitted to the right side member (Fig. 4).

However, Seltzer, Jr. fails to disclose the blade has a plurality of anchoring holes. Joanis et al. teaches that it is old and well known in the art of utility blades to incorporate a blade with a plurality of anchoring holes (34a and 34b). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention,

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to have provided Seltzer, Jr. with a blade featuring a plurality of anchoring holes to allow the user to set the blade in specific pre-determined positions and to prevent the blade from rotating when the users applies a torque force to the apparatus.

To the degree it can be argued that Seltzer, Jr. does not incorporate a transverse angulation from about 30 degrees to about 45 degrees. Seltzer, Jr. remains silent with respect to the specific dimensions of the angle. However, the angle is acute, i.e. between 0 and 90 degrees, which includes the angles between 30 and 45 degrees and appears to be on the order of between 30 and 45 degrees. Applicant has not disclosed that having the transverse angulation extend at this specific angle solves any stated problem or is for any particular purpose. For example, applicant does not disclose that having an angle 30 degrees solves a problem or is for any purpose that an angle of 48 degrees or 27 degrees could not function as an equivalent. Moreover, it appears that the knife of Seltzer, Jr., or applicant's invention, would perform equally well with the transverse angulation at any acute angle.

Accordingly, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified transverse angulation such that the transverse angulation be at an angle of from 30 degrees to about 45 degrees because such a modification would have been considered a mere design consideration which fails to patentably distinguish over transverse angulation.

Response to Arguments

8. Applicant's arguments filed 19 July 2006 have been fully considered but they are not persuasive. Applicant argues that the Seltzer, Jr. in view of Joanis et al. disclose a

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utility knife wherein the blade is in the same plane as the gripping portion when viewed from a side. However, the claims do not provide any structural language preventing a utility knife with a blade and gripping portion, that are in the same plane, from anticipating the claim. All the claim calls for is a blade that is transversely angulated or extends across at an angle relative to a gripping portion of the blade. The primary reference (Seltzer, Jr.) clearly discloses a blade that extends across (at an angle) a gripping portion.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vlcek, Reed, Moon, Teasdale, Des Enfants, Sr., Johnson, McCrary, Wilson, Gamba, Schultheis et al., and Cobb et al.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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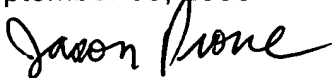
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:00-4:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 05, 2006



Patent Examiner
Jason Prone
Art Unit 3724
T.C. 3700